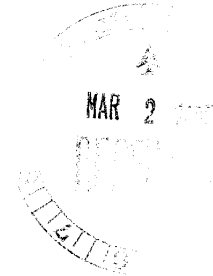


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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



**EX PARTE NO. 656  
MOTOR CARRIER BUREAUS-  
PERIODIC REVIEW PROCEEDING**

**COMMENTS OF  
PACIFIC INLAND TARIFF BUREAU, INC.**

ENTERED  
Office of Proceedings

MAR 15 2005

Public Record

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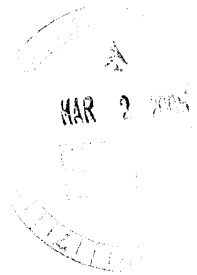
**Dated and Filed: March 2, 2005**

**ORIGINAL**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**EX PARTE NO. 656  
MOTOR CARRIER BUREAUS –  
PERIODIC REVIEW PROCEEDING**

**COMMENTS OF  
PACIFIC INLAND TARIFF BUREAU, INC.**



Pacific Inland Tariff Bureau, Inc. (PITB or the Bureau) files these comments in accordance with the Board's decisions served in this proceeding on December 13, 2004, and January 21, 2005. Attached hereto is the verified statement of Mr. Scott Edwards, Executive Director of PITB. Mr. Edwards' statement describes the activities of PITB and its member carriers pursuant to its collective ratemaking agreement, explains the benefits of collective ratemaking, and reaffirms the Bureau's desire to have its collective ratemaking agreement approved by the Board.

PITB operated continuously under an approved collective ratemaking agreement prior to the abolition of the Interstate Commerce Commission (ICC) by the ICC Termination Act of 1995. (ICCTA or Termination Act). The Termination Act provided for the expiration of collective ratemaking agreements within 3 years from enactment, unless approval was renewed by the Board. 49 U.S.C. § 13703 (d) (1995). The Board commenced a proceeding in 1997 to review collective ratemaking agreements in general. That proceeding culminated in the decisions in Section 5a Application No. 118 (Sub-No.

2), et al., EC-MAC Motor Carrier Association, Inc., et al., (EC-MAC), served November 20, 2001 and March 27, 2003.

During the review conducted in EC-MAC, PITB's agreement, like those of other bureaus, remained in effect pending the Board's action on its request for renewal in accordance with the provisions of 49 U.S.C. § 13703 (d). Following PITB's compliance with the new requirements imposed in EC-MAC, its agreement was approved by the Board in Section 5a Application No. 22 (Sub-No. 8), Pacific Inland Tariff Bureau, Inc. – Renewal of Agreement, served January 15, 2004.

The Motor Carrier Safety Improvement Act of 1999, P.L. 106-159, Dec. 9, 1999, required the Board to institute a proceeding within 5 years of enactment of that statute, and in each 5 year period thereafter, to review any agreement approved pursuant to 49 U.S.C. § 13703. The statute mandated that any such agreement be continued unless the Board determines otherwise. 49 U.S.C. § 13703 (c) (2). This proceeding was commenced in response to the statute's directive.

The Board's decision requires each Bureau to indicate whether it desires to continue to have its agreement approved. In addition, the decision expresses the Board's interest in whether there has been any change in circumstances since the last review cycle that would affect the public interest in the context of collective ratemaking. The attached statement of Mr. Edwards states unequivocally PITB's desire for continued approval of its ratemaking agreement. He also expresses PITB's belief that there has been no change in circumstances that would adversely affect the public interest in the continuation of collective ratemaking.

The Board's last review cycle demonstrated that collectively made bureau rates are used for benchmarking purposes and serve as the baseline to which individual discounts are applied to reflect market conditions. The attached statement confirms that PITB's class rate tariffs are still used for benchmarking purposes in the same manner as described in the last review cycle. The bureau's class rates are adjusted collectively by the parties to the agreement in strict accordance with the procedures contained in their approved agreement. Those changes are intended to reflect the carriers' average costs and their revenue requirements. The carriers then individually establish their own discount levels to reflect market conditions for their various traffic movements. This benchmark system reflects the industry practice supported by carriers and shippers.

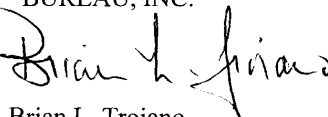
The bureau rate structure is used as a benchmark because it provides a fair, reasonable, and standardized level. It is based on the traditional factors of carrier costs and revenue need which produce a fair and reasonable rate level. Importantly, it serves as a standardized base that permits an "apples to apples" comparison of the discounts established individually for a shipper's particular transportation requirements. And, as a result of EC-MAC, the range of discounts offered by bureau carriers is reported to the Board annually and is public information.

Finally, small and medium carriers continue to comprise the current makeup of the bureau's members. To effectively compete and offer responsive transportation service to the shipping public, they rely on the resources of the bureau to develop and analyze information that ultimately produces a rate level recognized by shippers as a fair and reasonable benchmark.

We submit that collective ratemaking continues to serve the National Transportation Policy set forth in 49 U.S.C. § 13101, and therefore is in the public interest. The use of collectively established rates in today's pricing process encourages fair competition and reasonable rates, meets the need of shippers and receivers, allows a variety of quality and price options, enables efficient and well managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions. In carrying forward the provisions of 49 U.S.C. § 13703, Congress determined that collective ratemaking is in the public interest unless and until the Board determines otherwise. As recently as last year, the Board concluded that approval of PITB's agreement is in the public interest. PITB's carriers and their customers continue to rely on the collective ratemaking system in the same manner as described in the Board's last review cycle. Accordingly, PITB respectfully urges that the Board continue approval of its collective ratemaking agreement.

Respectfully submitted,

PACIFIC INLAND TARIFF  
BUREAU, INC.



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Bureau, Inc.

Dated and Filed: March 2, 2005

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**EX PARTE NO. 656**

**MOTOR CARRIER BUREAUS -  
PERIODIC REVIEW PROCEEDING**

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**VERIFIED STATEMENT  
OF  
SCOTT EDWARDS**

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My name is Scott Edwards and my business address is 16303 N.E. Cameron Blvd., Portland, OR 97230. I am employed as the Executive Director of Pacific Inland Tariff Bureau, Inc. (PITB or the Bureau). I am responsible for the overall supervision and management of PITB's daily business activities, including maintaining and keeping all Bureau records, reports and accounts, handling all tariff matters, and generally all administrative matters. I am appointed by and report directly to the Bureau's Board of Directors. I am also in regular contact with member carriers. I am familiar with the facts herein and am authorized to submit this statement.

PITB is a motor carrier rate bureau operating under a collective ratemaking agreement approved by the Surface Transportation Board (STB) in a decision served January 15, 2004, in Section 5a Application No. 22 (Sub-No. 8), Pacific Inland Tariff Bureau, Inc. – Renewal of Agreement. Prior to that approval, PITB's agreement had

been extensively reviewed and approved by the former Interstate Commerce Commission in 1987. It was continued in effect by the provisions of the ICC Termination Act, 49 U.S.C. § 13703 (d) (1995).

In its decision served December 13, 2004, instituting this proceeding, the Board stated that each bureau should, at a minimum, file a statement indicating whether it desires to have its collective activities agreement approved by the Board. I submit this statement to confirm that PITB and its member carriers desire to have their collective-ratemaking agreement approved by the Board.

Pursuant to its approved collective ratemaking agreement, PITB maintains and publishes rates for transportation in interstate and foreign commerce on behalf of its member carriers generally between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, WY; and between that territory and four western Provinces in Canada. We publish and maintain agency tariffs for general freight transportation as well as bulk transportation, for petroleum and other than petroleum products. PITB's LTL class rates are published and maintained in its tariff PIN 500. We also publish individual carrier exceptions to bureau tariffs taken pursuant to their right of independent action. In addition to PITB's agency tariffs, we publish private rate and rules tariffs for about three dozen individual carriers.

The membership of PITB presently includes 85 motor carriers (general freight as well as bulk) that participate in the tariffs published and maintained by PITB. Following a general trend, many of the major carriers withdrew their participation from bureau tariffs in the 1990's resulting in a decline in membership. Our member carriers now are predominantly small and medium size. In addition to its member carriers, PITB also

includes associate members that derive other products and services outside of the collective ratemaking functions of the Bureau.

In addition to its tariff functions for member carriers, PITB produces and sells software rating systems and rate information used by carriers and shippers. It provides software for personal computers, as well as software support, data on mainframe tape or diskette or via email, custom rate analysis, and customized rating software.

PITB also administers on behalf of its carriers one of the 70 workers' compensation programs allowed by the State of Washington. The program, known as Group RETRO, works to the benefit of carriers participating in the group by returning substantial refunds to carriers under a formula which essentially reflects the difference between premiums paid in and actual distributions experienced.

Finally, PITB has a sales arrangement with Southern Motor Carriers Rate Conference (SMC) under which it markets and sells certain products as a sales agent, including SMC's CZAR-Lite System. This arrangement has worked to the mutual benefit of PITB and SMC carriers and the shipping public.

As relevant to this proceeding, the tariffs that are established and maintained pursuant to PITB's approved collective ratemaking procedures continue to be utilized and relied upon extensively by member carriers and their customers for benchmarking purposes in negotiating and setting prices for transportation services. The collectively established rate level serves as the base line to which individually negotiated discounts apply in transportation agreements, annual bids, as well as single or repetitive movements. Thus, a uniform benchmark provides a reasonable rate level that permits a



uniform basis of comparison, while individually established discounts address the shipper's transportation requirements and competitive market conditions.<sup>1</sup>

Bureau carriers regularly adjust and update the general rate level and/or restructure these tariffs to ensure that they reflect current conditions. The rate level is typically adjusted once each year through a general rate increase proceeding (GRI). The procedures set forth in our agreement are strictly followed for every collective action proposed from docketing to disposition. These proposals are discussed and voted upon at meetings of our General Rate Committee which are noticed in advance and open to the public. Shippers may express their views and the carriers' action on any proposal is also subsequently noticed. These periodic adjustments are conducted in the open and subject to all of the conditions and procedures imposed by the Board and, before it the ICC.

The rates established pursuant to collective ratemaking agreements are still subject to statutory reasonableness requirements. Consequently, in proposing and acting upon GRI's, PITB carriers carefully consider traditional factors that measure their costs and revenue needs. Member carriers also have a practical interest to ensure the integrity of the bureau rate level. As the baseline to which individual discounts are applied, it is particularly important that it is rationally constructed to maintain its reputation as an acceptable standard. The integrity and reasonableness of the benchmark level therefore plays a significant role in setting the discount on particular traffic movements.

When the filing requirement for individual tariffs was eliminated, the industry experienced a proliferation of motor carrier rates in the marketplace. This created confusion and made rate comparisons time consuming, difficult and virtually

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<sup>1</sup> The range of discounts offered by PITB carriers is reported to the Board annually as required in Section 5a Application No. 118 (Sub-No. 2), EC-MAC Motor Carriers Service Assoc., et al., served November 20, 2001.

meaningless because the benchmarks were “apples and oranges”. Over the years, shippers and carriers have come to rely on recognized rate structures such as PITB’s in their pricing process.

The bureau rate structure brings standardization to the pricing process. Bureau rates long have set the industry norm and provide shippers a standardized and convenient means for comparison price and service shopping. We believe that the rate levels developed under the bureau process are the best and most reasonable to be found. The development of an accepted and standardized level of rates requires immunized collective action by the carriers in setting that standard. The availability of the bureau rate level as a standard from which shippers and carriers can negotiate is another pricing tool option that has served the public interest.

The collective ratemaking process also achieves substantial cost savings for the small and medium carriers who now comprise the lion’s share of our membership. Carriers need the ability to adjust their general rate levels to reflect changes in their costs and to restructure tariffs to reflect today’s conditions. For the small and medium carriers, it is not economically feasible to individually undertake these functions on a regular basis. For example, today’s marketplace demands a class rate tariff based on zip code pairings. The sheer number of such pairings requires an extensive effort to maintain and automate the number of combinations and then build, analyze, and compare all of this information. Carriers realize substantial economies associated with sharing the costs involved in putting together an accepted industry rate scale. Our carriers depend on the bureau to gather, develop, and analyze industry average cost information.

The bureau rate structure also addresses another phenomenon that developed after some of the major carriers pulled out of the bureau. Some large shippers began demanding that discounts be based on the individual class rates of some of the large carriers. This took the smaller carriers out of the negotiating process in that they had no role in setting the baseline rate level of another carrier demanded by the shipper. In contrast, the bureau rate level is set by its participating carriers. A standard baseline tariff also assists small and medium carriers in assessing their competitive position particularly when dealing with large shippers. Use of a standardized tariff is also informative to carriers and shippers who have no other access to pricing information of other shippers and carriers.

The ability to collectively discuss, establish and maintain joint line rates is likewise in the public interest. It is not practical for carriers to separately negotiate joint rates with each of its connectors every time they are required to quote a price to a shipper. Shippers' requirements, distribution patterns, and products constantly change. Carriers need to have their rates, discounts, conditions and terms of service in place prior to soliciting a shipper's traffic. Absent immunity to discuss and set joint line rates collectively in advance, the originating carrier would have to commence a search for partners and then enter negotiations with potential partners every time a shipper desires a price quote for a new or different movement. Such a process is inefficient and unresponsive. Joint line ratemaking provides a willing and available pool of connecting carriers at an established rate level for all freight movements.

Since the Board's last review cycle, PITB's members have not reported any dissatisfaction from their customers in the collective ratemaking process. Member

carriers are regularly exercising the authority conferred by their agreement.

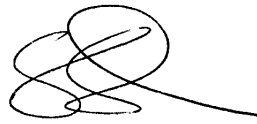
Consequently, we believe that the system is working as Congress intended.

The statute, the Board's authority, and the marketplace provide the appropriate checks on immunized collective activities authorized by Congress. All authorized collective actions of our member carriers conform to the procedures, requirements, and conditions set forth in PITB's approved collective ratemaking agreement. We believe that collective ratemaking continues to serve a useful public purpose and is therefore in the public interest. PITB submits that its agreement should be continued.

## VERIFICATION

I, Scott Edwards, declare and verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to submit this statement.

Dated: 2/25/2005

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line extending to the right.

(Signature)